

The Honorable Robert S. Lasnik

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES J. JACKSON III;
KING COUNTY; STATE OF WASHINGTON
DEPARTMENT OF REVENUE; and
JPMORGAN CHASE BANK, N.A.;

Defendants.

Case No. 2:18-cv-01067-RSL

**STIPULATION BETWEEN UNITED
STATES, KING COUNTY, STATE OF
WASHINGTON DEPARTMENT OF
REVENUE, AND JPMORGAN
CHASE BANK, N.A. RE: RELATIVE
PRIORITY OF LIENS AGAINST
SUBJECT PROPERTY**

The United States of America ("United States"), King County, State of Washington
Department of Revenue ("State of Washington"), and JPMorgan Chase Bank, N.A. ("Chase"),
by and through their undersigned counsel, hereby agree and stipulate as follows ("Stipulation"):

1. On July 20, 2018, the United States commenced this suit for the purpose of, *inter alia*, foreclosing federal tax liens against James J. Jackson III upon real property owned by Mr. Jackson located in King County, Washington that is commonly described as 31854 Thomas Road SE, Auburn, WA 98092 (referred to in the Complaint and herein as the "Subject Property"). The Subject Property bears King County Assessor's Parcel No. 072106-9012. The

Stipulation Between United States, King County, State Of
Washington Department Of Revenue, and JPMorgan Chase Bank,
N.A. Re: Relative Priority Of Liens Against Subject Property
(Case No. 2:18-cv-01067-RSL)

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Tax Division, Western Region
P.O. Box 683
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Telephone: 202-616-3366

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1 legal description of the Subject Property is as follows:

2 THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST
3 QUARTER OF SECTION 7, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.,
4 IN KING COUNTY, WASHINGTON;
5 EXCEPT THAT PORTION CONVEYED TO KING COUNTY BY DEED RECORDED
6 UNDER RECORDING NO. 1064195;
7 AND EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

8 BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTH HALF;
9 THENCE SOUTH 88°47'50" WEST ALONG THE NORTH LINE THEREOF,
10 693.33 FEET TO THE POINT OF BEGINNING;
11 THENCE CONTINUING SOUTH 88°47'50" WEST 499.98 FEET TO THE
12 WEST LINE OF SAID SOUTH HALF;
13 THENCE SOUTH 1°28'05" WEST ALONG SAID WEST LINE 15.70 FEET;
14 THENCE NORTH 86°55'07" EAST 360.96 FEET;
15 THENCE NORTH 87°13'11" EAST 139.99 FEET TO THE POINT OF BEGINNING.

16 SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

17 See Dkt. # 1 at 3, ¶ 13.

18 2. King County, the State of Washington, and Chase were named as parties to this
19 action pursuant to 26 U.S.C. § 7403 because they may claim some right, title, or interest in the
20 Subject Property. See Dkt. # 1 at 3, ¶¶ 9-11. The United States claims no monetary relief against
21 King County, the State of Washington, and Chase. King County, the State of Washington, and
22 Chase have no interest in the Complaint apart from ensuring that any foreclosure sale of the
23 Subject Property pursuant to the United States' claim in the Complaint be made subject to the
24 liens of King County, the State of Washington, and Chase as set forth herein.

3. Service of process upon King County was completed on August 2, 2018. Dkt. # 8.

4. Service of process upon the State of Washington was completed on August 3,
2018. Dkt. # 9.

5. Service of process upon Chase was completed on August 3, 2018. Dkt. # 10.

6. The United States claims that federal tax liens encumber the Subject Property and
that the federal tax liens arose on the dates of assessment. See Dkt. # 1 at 8, ¶ 26. The federal tax

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liens consist of federal tax liens for federal employment taxes (Form 941) for the periods ending March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006, and September 30, 2007, March 30, 2007, and June 30, 2007 (“federal employment tax liens”) and federal tax liens for federal income taxes (Form 1040) for the periods ending December 31, 2006 and December 31, 2009 (“federal income tax liens”) (collectively, “federal tax liens”). *Id.* at 4-5, 8, ¶¶ 16-17, 26.

7. As more fully described in paragraphs 8-12, below, the Internal Revenue Service (“IRS”) recorded Notices of Federal Tax Lien in King County pursuant to 26 U.S.C. § 6323(a) to make its federal tax liens against any and all real property owned by Mr. Jackson, including the Subject Property, effective against persons entitled to notice.

8. On May 8, 2008, in order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded a Notice of Federal Tax Lien (“NFTL”) against James J. Jackson III with respect to unpaid federal employment tax liabilities (Form 941) for the tax periods ending March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006, and September 30, 2007, with the King County Recorder’s Office (Recording No. 20080508001060).

9. On December 15, 2008, in order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded a NFTL against James J. Jackson III with respect to unpaid federal employment tax liabilities (Form 941) for the tax periods ending March 31, 2007 and June 30, 2007, with the King County Recorder’s Office (Recording No. 20081215000760).

10. On October 14, 2009, in order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded a NFTL against James J. Jackson III with respect to unpaid federal income tax liabilities (Form 1040) for the tax periods ending

December 31, 2006 and December 31, 2008, with the King County Recorder's Office (Recording No. 20091014000449).

11. On October 3, 2017, in order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded a NFTL Refile against James J. Jackson III with respect to unpaid federal employment tax liabilities (Form 941) for the tax periods ending March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006, and September 30, 2007, with the King County Recorder's Office (Recording No. 20171003001283).

12. On October 8, 2018, in order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded a NFTL Refile against James J. Jackson III with respect to unpaid federal employment tax liabilities for the tax periods ending March 31, 2007 and June 30, 2007, with the King County Recorder's Office (Recording No. 20181008000748).

13. King County holds a county tax lien encumbering the Subject Property for the 2019 real property taxes that will be levied in late 2018 . In addition, King County's property tax lien for 2020 real property taxes was initiated on January 1, 2019, subject to the county's property tax levy in late 2019. ("county tax lien")

14. The State of Washington holds state tax liens encumbering the Subject Property that secure unpaid state tax debts pertaining to Jackson Painting that are due and owing from Mr. Jackson for the tax periods August 1, 2004-April 30, 2005 and August 1, 2005-August 31, 2006 ("state tax liens"). The state tax liens are based on tax debts that were assessed on July 14, 2009. The State of Washington filed a Tax Warrant No. 116513A in the King County Superior Court under Case No. 09-2-28386-9 KNT on July 30, 2009. A Judgment was filed in the King County Superior Court under Case No. 09-9-28177-2 on July 30, 2009.

15. Chase holds a lien against the Subject Property based upon a deed of trust

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1 executed by Mr. Jackson on or about March 27, 2003 that was recorded with King County
2 Recorder's Office on April 8, 2003 (Recording No. 20030408001386) ("Mortgage Lien"). Mr.
3 Jackson used the Subject Property as collateral to secure a loan.

4 16. Pursuant to 26 U.S.C. § 6323(b)(6), the parties agree that: King County is entitled
5 to priority over Chase's Mortgage Lien, federal tax liens, and state tax liens on the Subject
6 Property by virtue of delinquent ad valorem property taxes; King County's county tax lien is
7 entitled to first priority from the net proceeds of sale (after costs of sale); and King County's
8 county tax lien will be treated as such in any order of sale and/or decree of foreclosure proposed
9 by the United States in this action.

10 17. The parties agree that: Chase's Mortgage Lien is entitled to priority over the
11 federal tax liens and state tax liens on the Subject Property; Chase's Mortgage Lien is entitled to
12 second priority from the net proceeds of sale (after costs of sale); and Chase's Mortgage Lien
13 will be treated as such in any order of sale and/or decree of foreclosure proposed by the United
14 States in this action.

15 18. The parties agree that: the United States' federal employment tax liens are entitled
16 to priority over the state tax liens on the Subject Property based on their respective assessment
17 dates; the United States' federal employment tax liens are entitled to third priority from the net
18 proceeds of sale (after costs of sale); and the United States' federal employment tax liens will be
19 treated as such in any order of sale and/or decree of foreclosure proposed by the United States in
20 this action.

21 19. The parties agree that: the State of Washington's state tax liens are entitled to
22 priority over the federal income tax liens on the Subject Property based on their respective
23 assessment dates; the State of Washington's state tax liens are entitled to fourth priority from the
24 net proceeds of sale (after costs of sale), and the State of Washington's state tax liens will be

1 treated as such in any order of sale and/or decree of foreclosure proposed by the United States in
2 this action.

3 20. The parties agree that: the United States' federal income tax liens are entitled to
4 fifth priority from the net proceeds of sale (after costs of sale); and the United States' federal
5 income tax liens will be treated as such in any order of sale and/or decree of foreclosure
6 proposed by the United States in this action.

7 21. Therefore, in the event the Court permits the sale of the Subject Property, the
8 United States will include in its proposed order of sale a provision that the sale of the Subject
9 Property shall be subject to the liens of the parties as described herein, and that such liens shall
10 be satisfied from the net proceeds of sale, defined as the proceeds resulting from the sale of the
11 Subject Property less costs of sale, to cover their liens or ownership interest due and owing at the
12 time of sale, in the following order, until the liens are satisfied or the net proceeds of sale
13 exhausted:

- 14 (1) King County for county tax lien(s);
- 15 (2) Chase for Mortgage Lien;
- 16 (3) United States for federal employment tax liens;
- 17 (4) State of Washington for state tax liens;
- 18 (5) United States for federal income tax liens; and
- 19 (6) Any balance remaining after the above payments shall be held by the Clerk until
20 further order of the Court.

21 22. The parties agree upon written request in connection with a sale of the Subject
22 Property, King County, the State of Washington, and Chase will promptly provide the United
23 States with a payoff figure on their respective liens as of the date of sale.

24 23. The parties agree to bear their own costs and attorney's fees in this action, except

1 for the costs incurred in selling the Subject Property, which will be reimbursed prior to satisfying
2 the outstanding liens on the Subject Property. This Stipulation and Order does not include costs
3 and attorney's fees incurred outside of, or separate from, this action.

4 24. The United States will not seek any order or judgment and no order or judgment
5 shall be entered in this action for the United States and against King County, the State of
6 Washington, and Chase for any award for money, damages, fees or costs, including but not
7 limited to attorneys' fees, and/or equitable relief.

8 25. Unless otherwise ordered by the Court, King County, the State of Washington,
9 and Chase should be excused from further participation in this action, including but not limited
10 to court hearings, discovery, alternative dispute resolution, and trial in this action and shall be
11 non-parties for purposes of discovery. All proposed orders and judgments shall be served on
12 King County, the State of Washington, and Chase prior to entry. King County, the State of
13 Washington, and Chase shall have the opportunity to review, and provide any response to if they
14 so choose, any motion to confirm the sale of the Subject Property as well as file appropriate
15 documentation to establish the lawful amount it is owed at the time of sale. King County, the
16 State of Washington, and Chase agree to be bound by any judgment in this action that is
17 consistent with this Stipulation and Order, and any judgment shall incorporate the terms of this
18 stipulation and order.

19 26. The parties so agree and request an order ("Order") confirming the foregoing
20 Stipulation.

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27. This Stipulation may be executed in duplicate and separate counterparts, and all executed duplicates and counterparts together shall be construed as a single Stipulation.

Respectfully submitted this 26th day of February, 2019.

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ORDER

On reading the foregoing Stipulation between the United States, King County, State of Washington Department of Revenue, and JPMorgan Chase, N.A. and good cause appearing therefore, the Court adopts the Stipulation set forth above. It is SO ORDERED and APPROVED.

DATED: Feb. 27, 2019



The Honorable Robert S. Lasnik
United States District Judge